

OWNERS INSURANCE COMPANY

**6101 Anacapri Boulevard,
Lansing, Michigan 48917**

NAIC COMPANY CODE 32700

**MARKET CONDUCT EXAMINATION REPORT
as of December 31, 2005**

**PREPARED BY INDEPENDENT CONTRACTORS FOR THE
COLORADO DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF INSURANCE**

**OWNERS INSURANCE COMPANY
6101 Anacapri Boulevard
Lansing, Michigan 48917**

**MARKET CONDUCT
EXAMINATION REPORT
as of
December 31, 2005**

Prepared by

James T. Axman, CIE

Frederick T. Verny, Jr., AIE, FLMI

Independent Contract Examiners

Sept 28, 2006

David F. Rivera
Commissioner of Insurance
State of Colorado
1560 Broadway Suite 850
Denver, Colorado 80202

Commissioner Rivera:

In accordance with §§ 10-1-203 and 10-3-1106, C.R.S., a limited market conduct examination of the private passenger automobile and homeowners insurance business of OWNERS INSURANCE COMPANY has been conducted.

The Company's underwriting and claims records were examined at 6101 Anacapri Boulevard, Lansing, Michigan 48917

The examination covered the period from January 1, 2005 to December 31, 2005.

A report of the examination of OWNERS INSURANCE COMPANY is, herewith, respectfully submitted.

James T. Axman, CIE

Frederick T. Verny, Jr., AIE, FLMI

Independent Market Conduct Examiners

**MARKET CONDUCT
EXAMINATION REPORT
OF
OWNERS INSURANCE COMPANY**

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COMPANY PROFILE

The Company began operations in 1975 and is domiciled in Ohio. It began writing new business in Colorado in 1999. The Company is represented by more than 5,700 Independent Agencies, selling personal and commercial lines, life, health and annuities, and is licensed in thirty-one (31) states.

*As of December 31, 2005, the Company had reported premium in Colorado of \$7,580,000 for private passenger automobile insurance, representing a 0.27% market share.

*As of December 31, 2005, the Company had reported premium in Colorado of \$6,870,000 for homeowners insurance, representing a 0.62% market share.

*Data as reported in the 2005 Colorado Insurance Industry Statistical report.

PURPOSE AND SCOPE OF EXAMINATION

This market conduct report was prepared by independent examiners contracting with the Colorado Division of Insurance for the purpose of auditing certain business practices of insurers licensed to conduct the business of insurance in the State of Colorado. This procedure is in accordance with Colorado insurance law §10-1-204, C.R.S., which empowers the Commissioner to supplement the Division of Insurance's resources to conduct market conduct examinations. All work products developed in the production of this report are the sole property of the Colorado Division of Insurance.

The purpose of the examination was to determine the Company's compliance with Colorado insurance laws related to private passenger automobile and homeowners insurance. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record.

This examination was governed by, and performed in accordance with, procedures developed by the National Association of Insurance Commissioners and the Colorado Division of Insurance. In reviewing material for this report the examiners relied primarily on records and material maintained and/or submitted by the Company. The examination covered a twelve (12) month period of the Company's operations, from January 1, 2005 to December 31, 2005.

File sampling was based on a review of underwriting and claims files that were systematically selected by using ACL™ software and computer data files provided by the company. Sample sizes were chosen based on procedures developed by the National Association of Insurance Commissioners. Upon review of each file any concerns or discrepancies were noted on comment forms and delivered to the Company for review. Once the Company was advised of a finding contained in a comment form, the Company had the opportunity to respond. For each finding the Company was requested to agree, disagree or otherwise justify the Company's noted action. At the conclusion of each sample, the Company was provided a summary of the findings for that sample. The examination report is a report by exception. Therefore, much of the material reviewed is not addressed in this written report. Reference to any practices, procedures, or files, which manifested no improprieties, was omitted.

An error tolerance level of plus or minus ten dollars (\$10.00) was allowed in most cases where monetary values were involved. However, in cases where monetary values were generated by computer or other systemic methodology, a zero dollar (\$0) tolerance level was applied in order to identify possible system errors. Additionally, a zero dollar (\$0) tolerance level was applied in instances where there appeared to be a consistent pattern of deviation from the Company's established policies, procedures, rules and/or guidelines.

When sampling was involved, a minimum error tolerance level of five percent (5%) was established to determine reportable exceptions. However, if an issue appeared to be systemic, or when due to the sampling process it was not feasible to establish an exception percentage, a minimum error tolerance percentage was not utilized. Also, if more than one sample was reviewed in a particular area of the examination (e.g., timeliness of claims payment), and if one or more of the samples yielded an exception rate of five percent (5%) or more, the results of any other samples with exception percentages less than five percent (5%) were also included.

The report addresses Private Passenger Automobile and Homeowners insurance and contains information regarding deviation from Colorado insurance law. The examination included review of the following:

1. Company Operations and Management
2. Complaints
3. Underwriting
4. Rating
5. Claims Practices

Certain unacceptable or non-complying practices may not have been discovered in the course of this examination. Additionally, findings may not be material to all areas that would serve to assist the Commissioner. Failure to identify or criticize specific Company practices does not constitute acceptance of such practices by the Colorado Division of Insurance. Examination findings may result in administrative action by the Division of Insurance.

EXAMINERS' METHODOLOGY

The examiners reviewed the Company's private passenger automobile and homeowners complaints, underwriting, rating, and claims practices to determine compliance with the Colorado insurance law as outlined in Exhibit 1.

Exhibit 1

| Law | Subject |
|----------------------------|---|
| Section 10-1-128, C.R.S. | Fraudulent insurance acts – immunity for furnishing information relating to suspected fraud – legislative declaration. |
| Section 10-2-502, C.R.S. | Nonresident licensing – qualification. |
| Section 10-3-1103, C.R.S. | Unfair methods of competition and unfair or deceptive acts or practices prohibited. |
| Section 10-3-1104, C.R.S. | Unfair methods of competition and unfair or deceptive acts or practices. |
| Section 10-4-110.7, C.R.S. | Cancellation or nonrenewal of policies of homeowner's insurance. |
| Section 10-4-110.8, C.R.S. | Homeowner's insurance – prohibited practices-definitions. |
| Section 10-4-112, C.R.S. | Property damage - time of payment. |
| Section 10-4-116, C.R.S. | Use of credit information. |
| Section 10-4-403, C.R.S. | Standards for rates – competition – procedure – requirement for independent actuarial opinions regarding 1991 legislation. |
| Section 10-4-404.5, C.R.S. | Rating plans – property and casualty type II insurers – rules. |
| Section 10-4-413, C.R.S. | Records required to be maintained. |
| Section 10-4-416, C.R.S. | Prohibiting changes in rates or coverages. |
| Section 10-4-601, C.R.S. | Definitions. |
| Section 10-4-602, C.R.S. | Basis for cancellation. |
| Section 10-4-603, C.R.S. | Notice. |
| Section 10-4-604, C.R.S. | Nonrenewal. |
| Section 10-4-605, C.R.S. | Proof of notice. |
| Section 10-4-609, C.R.S. | Insurance protection against uninsured motorists-applicability. |
| Section 10-4-610, C.R.S. | Property damage protection against uninsured motorists. |
| Section 10-4-611, C.R.S. | Elimination of discounts – damage by uninsured motorist. |
| Section 10-4-613, C.R.S. | Glass repair and replacement. |
| Section 10-4-614, C.R.S. | Inflatable restraint systems - replacement - verification of claims. |
| Section 10-4-618, C.R.S. | Unfair or discriminatory trade practices – legislative declaration. |
| Section 10-4-626, C.R.S. | Prohibited reasons for nonrenewal or refusal to write a policy of automobile insurance applicable to this part 6. |
| Section 10-4-627, C.R.S. | Discriminatory standards – premiums – surcharges - proof of financial responsibility requirements. |
| Section 10-4-628, C.R.S. | Refusal to write – changes in – cancellation - nonrenewal of policies prohibited. |
| Section 10-4-629, C.R.S. | Cancellation – renewal – reclassification. |
| Section 10-4-630, C.R.S. | Exclusion of named driver. |
| Section 10-4-632, C.R.S. | Reduction in rates for drivers aged fifty-five years or older who complete a driver's education course – legislative declaration. |
| Section 10-4-633, C.R.S. | Certification of policy and notice forms. |
| Section 10-4-634, C.R.S. | Assignment of payment for covered benefits. |
| Section 10-4-642, C.R.S. | Prompt payment of direct benefits - legislative declaration - definitions. |

| | |
|-----------------------------|--|
| Insurance Regulation 1-1-7 | Market Conduct Record Retention |
| Insurance Regulation 1-1-8 | Penalties And Timelines Concerning Division Inquiries And Document Requests |
| Insurance Regulation 5-1-1 | Mass Merchandising of Property and Liability insurance |
| Insurance Regulation 5-1-2 | Application and Binder Forms |
| Insurance Regulation 5-1-10 | Rate and Rule Filing Submissions Property and Casualty Insurance |
| Insurance Regulation 5-1-14 | Penalties For Failure To Promptly Address Property And Casualty First Party Claims |
| Insurance Regulation 5-2-2 | Renewal of Automobile Insurance Policies – Excluded Named Drivers |
| Insurance Regulation 5-2-12 | Concerning Automobile Insurance Consumer Protections |
| Insurance Regulation 5-2-15 | Concerning Consumer Protection for Vehicle Valuation and Rental Reimbursements |
| Insurance Regulation 6-1-1 | Limiting Coverage |
| Insurance Regulation 6-2-1 | Complaint Record Maintenance |

Company Operations/Management

The examiners reviewed Company management, quality controls, record retention, installment payment plans, anti-fraud plan, forms certification, and timely cooperation with the examination process.

Complaints

The examiners compared the Division of Insurance complaint database against the Company's complaint log to determine complaint activity. Consumers filed four (4) complaints with the Colorado Division of Insurance during the period under examination, and the examiners reviewed those complaints for potential trends in Company procedures and handling.

Three (3) complaints were generated through the Right to Protest provision of Section 10-4-629, C.R.S. One complaint was due to an increase in premium without giving proper notice. One complaint concerned nonrenewing a policy based on one at-fault accident under eight points, and one complaint concerned nonrenewing a policy without offering a named driver exclusion. All were found to be justified and resulted in corrective actions taken by the Company.

The remaining one (1) complaint generated through the Company's claim department, concerned the insured's dissatisfaction with an uninsured motorist settlement offer. A settlement agreement between the Company and insured was reached to the insured's satisfaction. All complaints were resolved and handled in a timely manner.

Contract Forms and Endorsements

The following private passenger automobile forms and endorsements were filed and certified with the Colorado Division of Insurance on July 7, 2005. During the course of the underwriting phases, the format, language, and disclosures contained on these forms were also reviewed for compliance with Colorado insurance law.

| Form Title | Form Number |
|--|--------------------|
| Statement to Lienholder | 19122 (12-03) |
| Fill-In Endorsement | 26153 (10-98) |
| Notice of Cancellation/Non-Renewal | 59134 (03-88) |
| Named Insured Schedule | 59270 (02-97) |
| Notice of Privacy Practices | 59325 (07-01) |
| Notice to Policyholder Credit Based Insurance Scores | 59362 (04-03) |
| Insurance Scoring Disclosure and Your Right to Update Credit Based Insurance Score | 59364 (05-03) |
| Auto Coverage Form | 79001 (03-99) |
| Automobile Policy Cover | 79025 (09-94) |
| Notice of Coverage Reduction | 79072 (01-04) |
| Rented Auto Replacement Coverage | 79299 (03-99) |
| Named Person Uninsured Motorist | 79309 (06-94) |
| Uninsured Motorist Property Damage Coverage | 79331 (07-99) |
| CO-Exclusion of Named Person | 79350 (02-04) |
| Auto Disclosure Form | 79351 (06-03) |
| Automobile Medical Payments | 79402 (07-94) |
| Named Person Automobile Medical Payments | 79407 (06-92) |
| Policy Cancellation and Nonrenewal | 79427 (07-01) |
| Damage to Your Automobile in Mexico | 79428 (07-99) |
| Uninsured Motorist Coverage | 79429 (10-01) |
| No-Fault Insurance Endorsement – Option 6 | 79430 (02-01) |
| Motorcycle Medical Payments Coverage | 79439 (06-03) |
| Exclusion of Named Person | 79441 (07-99) |
| Automobile Loan Gap | 79472 (07-99) |
| Waiver of Collision Deductible | 79527 (06-92) |
| Vacation Trailer Endorsement | 79530 (06-99) |
| Mobile or Motor Home Contents | 79532 (06-92) |
| Antique Automobiles | 79535 (11-94) |
| Loss of Use-Rental Fee | 79536 (07-94) |
| Amendment of Limit of Liability Provision-Leased Automobiles | 79538 (06-92) |
| Combined Limit of Liability | 79539 (03-99) |
| Recreational Vehicle Endorsement | 79541 (03-99) |
| Federal Employees Using Auto in Government Business | 79542 (06-92) |
| Drive Other Cars Coverage Extension | 79544 (06-92) |
| Broadened Coverage For Named Individuals | 79548 (06-00) |
| Statement to Lessor | 79554 (02-98) |
| Automobile Stereo and Media Coverage | 79567 (10-01) |
| Motorized Golf Cart Coverage | 79609 (06-97) |
| Explanation of No-Fault Coverage | 79643 (07-99) |

| | |
|---|---------------|
| Option to Reject/Modify Uninsured Motorist Coverage | 79644 (06-03) |
| CO Automobile Insurance Identification Card | 79645 (07-99) |
| Colorado Notice of Policy Rewrite | 79659 (09-99) |
| Waiver of Deductible of Glass Damage | 79730 (07-97) |
| Notice to Policyholder | 79782 (06-03) |
| Additional Expense Coverage | 79921 (05-01) |
| Section III – Damage to Your Automobile Amendatory Endorsement | 79939 (05-02) |
| Automobile Physical Damage Plus Endorsement | 79940 (05-02) |
| Colorado Renewal Notice of Premium Increase | 79949 (12-03) |
| Automobile Medical Payments Extension | 79982 (05-03) |
| Colorado Notice to Policyholder | 79997 (01-04) |

Private Passenger Automobile Cancellations/Non-renewals/Surcharges

For the period under examination, systematically selected samples were taken as follows to determine compliance with underwriting practices and manual rules:

| Review Lists | Population | Sample Size | Percentage to Population |
|---------------------|-------------------|--------------------|---------------------------------|
| Cancellations | 27 | 27 | 100% |
| Non-renewals | 91 | 50 | 55% |
| Surcharges | 42 | 42 | 100% |

Homeowners Cancellations and Non-renewals

For the period under examination, systematically selected samples were taken as follows to determine compliance with underwriting practices and manual rules:

| Review Lists | Population | Sample Size | Percentage to Population |
|---------------------|-------------------|--------------------|---------------------------------|
| Cancellations | 27 | 27 | 100% |
| Nonrenewals | 20 | 20 | 100% |

Rating

The examiners reviewed the rate and rule filings, statistical justifications, and methodology submitted to the Colorado Division of Insurance for the period under examination. This information was compared against a sample of in-force policies, rated by coverage selection, to determine compliance with filed base rates, territory codes, symbols, class plans, discounts, tier-rating factors, and final premium calculations. A sample of agents submitting new business was verified against the Division's producer database for licensing compliance.

| Review List | Population | Sample Size | Percentage to Population |
|-------------------------------|-------------------|--------------------|---------------------------------|
| In-Force Policies - Auto | 7,021 | 100 | 1.4% |
| In-Force Policies - Homeowner | 8,525 | 100 | 1.2% |

Claims

For the period under examination, the examiners systematically selected the following samples to determine compliance with claims handling practices and manual rules:

| Review Lists | Population | Sample Size | Percentage to Population |
|--------------------------|-------------------|--------------------|---------------------------------|
| Auto Claims Paid | 1,070 | 50 | 5% |
| Auto Claims CWP | 372 | 50 | 13% |
| Auto Medical Claims Paid | 54 | 54 | 100% |
| Homeowners Claims Paid | 567 | 50 | 9% |
| Homeowners Claims CWP | 205 | 50 | 24% |

EXAMINATION REPORT SUMMARY

The examination resulted in seven (7) issues arising from the Company's apparent failure to comply with Colorado insurance laws that govern all property and casualty insurers operating in Colorado.

Company Operations and Management:

In the area of company operations and management, one (1) compliance issue is addressed in this report:

- **Issue A: Use, in some cases, of an uncertified form.**

Complaint Handling:

In the area of complaint handling, no compliance issues are addressed in this report.

Underwriting:

In the area of underwriting, five (5) compliance issues are addressed in this report. Issues can arise from Colorado insurance law requirements involving manual rules, and procedures encompassing the operations of new business policy issuance, cancellation, rejection of risks, non-renewals, and surcharges. The issues in this phase were identified as follows:

- **Issue B: Failure, in some cases, to have at least one (1) incident occurring during a fifteen (15) month period preceding the next renewal date for policies with an increase in premium.**
- **Issue C: Failure, in some cases, to provide 30 days notification for increase in premium.**
- **Issue D: Failure, in some cases, to disclose the Colorado assigned risk plan on cancellation notices.**
- **Issue E: Failure, in some cases, to properly cancel policies.**
- **Issue F: Failure, in some cases, to properly nonrenew policies.**

Rating:

In the area of rating, one (1) compliance issue is addressed in this report. Issues may arise from Colorado insurance law requirements involving rate, rule filings, statistical justifications, methodology and the rating of policies with compliance with base rates, territory codes, symbols, class plans, discounts, tier-rating factors, and final premium calculations. The issue in this phase was identified as follows:

- **Issue G: Failure, in some cases, to properly rate homeowners policies.**

Claim Practices:

In the area of claim practices, no compliance issues are addressed in this report.

A copy of the Company's response, if applicable, can be obtained by contacting the Company or the Colorado Division of Insurance.

Results of previous Market Conduct Examinations are available on the Colorado Division of Insurance's website at www.dora.state.co.us/insurance or by contacting the Colorado Division of Insurance.

OWNERS INSURANCE COMPANY

PERTINENT FACTUAL FINDINGS

COMPANY OPERATIONS AND MANAGEMENT

Issue A: Use, in some cases, of an uncertified form.

Section 10-4-633, C.R.S., Certification of policy and notice forms, states in part:

- (1) All insurers providing automobile insurance and who are authorized by the commissioner to conduct business in Colorado shall submit an annual report to the commissioner listing any policy forms, endorsements, cancellation notices, renewal notices, disclosure forms, notices of proposed premium increases, notices of proposed reductions in coverage, and such other forms as may be requested by the commissioner issued or delivered to any policyholder in Colorado. Such listing shall be submitted no later than July 1 of each year and shall contain a certification by an officer of the organization that to the best of the officer's knowledge each policy form, endorsement, or notice form in use complies with Colorado law. The necessary elements of the certification shall be determined by the commissioner.
- (2) All insurers providing automobile insurance and who are authorized by the commissioner to conduct business in Colorado shall also submit to the commissioner a list of any new policy form, endorsement, cancellation notice, renewal notice, disclosure form, notice of proposed premium increase, notice of proposed reductions in coverage, and any other form as may be requested by the commissioner at least thirty-one days before using such policy form, endorsement, cancellation notice, renewal notice, disclosure form, notice of proposed premium increase, notice of proposed reductions in coverage, and any other form as may be requested by the commissioner. Such listing shall also contain a certification by an officer of the organization that to the best of the officer's knowledge each new policy form, endorsement, or notice form proposed to be used complies with Colorado law. The necessary elements of the certification shall be determined by the commissioner.
- (3) The commissioner shall have the power to examine and investigate insurers authorized to conduct business in Colorado to determine whether automobile policy forms, endorsements, cancellation notices, renewal notices, disclosure forms, notices of proposed premium increases, notices of proposed reductions in coverage, and such other forms as may be requested by the commissioner comply with the certification of the organization and statutory mandates.

Additionally, Colorado Insurance Regulation 1-1-6. Concerning the Elements of Certification for Accident and Health forms, Private Passenger Automobile Forms, Commercial Automobile with Individually-Owned Private Passenger Automobile-Type Endorsement Forms, Claims-made Liability Forms, Preneed Funeral Contracts and Excess Loss Insurance in Conjunction with Self-Insured Employer Benefit Plans under the Federal "Employee Retirement Income Security Act" promulgated pursuant to §§ 10-1-109, 10-4-419, 10-4-633, 10-15-105 and 10-16-107.2 and 10-16-119, C.R.S., states in part:

Section 4. Definitions

For the purposes of this regulation:

- A. "Annual Report for private passenger automobile insurance" shall mean a list of all private passenger automobile policy forms, endorsements, cancellation notices, renewal notices, disclosure forms, notices of proposed premium increases, notices of reductions in coverage and any other such forms as requested by the Commissioner currently in use and issued or delivered to any policyholder in Colorado, including the titles of the programs or products affected by the forms.

The Company was using Notice of Cancellation/Non-Renewal form 59134 Edition date (06/99), and Uninsured Motorist Coverage form 79429 Edition date (07/04) which were not contained on the annual form certification listing submitted to the Colorado Division of Insurance for the examination period and therefore constitutes use of non-certified forms. The 2005 annual certification provided to the examiners displays Cancellation/Nonrenewal form 59134 (03/88) and Uninsured Motorist Coverage form 79429 (10/01), which are presumably older editions. Any edition date revision must be submitted to the Division of Insurance with a certification.

In addition, it was noted that the Company was using Colorado Important Notice-Uninsured Motorist Changes form 79066 (09/04) which was not contained on the annual form certification listing submitted to the Colorado Division of Insurance for the examination period and therefore constitutes use of a non-certified form.

Recommendation #1:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-4-633, C.R.S., and Colorado Insurance Regulation 1-1-6. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has filed a complete annual certification which includes any updated forms currently being used and has implemented necessary changes in order to ensure compliance with Colorado insurance law.

UNDERWRITING

Issue B: Failure, in some cases, to have at least one (1) incident occurring during a fifteen (15) month period preceding the next renewal date for policies with an increase in premium.

Colorado Insurance Regulation 5-2-12, Concerning Automobile Insurance Consumer Protection, states in part:

Section 5. Rules

B. Rules Limiting Insurers' Action To Refuse To Write, Cancel, Nonrenew, Increase Premium, Surcharge Or Reduce Coverages

3 Application of time limitations.

In reviewing protests under §10-4-629, C.R.S., the Division of Insurance will apply the following time limitations:

- a. If the insurer bases its action upon the fact that an insured has been involved in an accident which resulted in payment under the policy and/or has been convicted of a motor vehicle violation, the insurer may base its action on convictions or accidents which occurred during the thirty-six (36) month period immediately preceding the date of the proposed action for that individual insured under the policy. However, in case of nonrenewals, increase in premiums, or reduction in coverage, in order to take action upon incidents occurring during this thirty-six (36) month period, at least one (1) incident must have occurred during the fifteen (15) month period immediately preceding the next renewal date for each individual upon whom the proposed action is being attempted. Cancellations are subject to the restrictions set forth in §10-4-602, C.R.S.
- b. An insurer may exceed the fifteen (15) month period if such renewal is the first opportunity to underwrite an additional insured, i.e., new driver in household. Surcharge or merit rating changes may only be made on the policy renewal date.

In order for the Company to base its premium increase action on convictions or accidents which occurred during the preceding thirty-six (36) month period, at least one (1) incident must have occurred within fifteen (15) months of the date of the proposed action.

The following chart illustrates the significance of error versus the population and sample examined:

Private Passenger Automobile Surcharges

| Population | Sample Size | Number of Exceptions | Percentage to Sample |
|-------------------|--------------------|-----------------------------|-----------------------------|
| 42 | 42 | 3 | 7% |

An examination of forty-two (42) underwriting surcharges, representing 100% of all such files handled by the Company during the examination period, showed three (3) exceptions (7% of the sample) wherein the Company failed to have at least one (1) incident occurring during a fifteen (15) month period preceding the next renewal date for policies with an increase in premium as required by Colorado insurance law.

Recommendation # 2:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Colorado Insurance Regulation 5-2-12. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has implemented necessary changes to its underwriting procedures to correctly apply the 15 month rule for an increase in premium notification at renewal in order to ensure compliance with Colorado insurance law.

Issue C: Failure, in some cases, to provide 30 days' notification for increase in premium.

Section 10-4-629, C.R.S., Cancellation - renewal - reclassification, states in part:

- (1) Except in accordance with the provisions of this part 6, an insurer shall not cancel or fail to renew a policy of insurance that complies with this part 6, issued in this state, as to any resident of the household of the named insured, for any reason other than nonpayment of premium, or increase a premium for any coverage on any such policy unless the increase is part of a general increase in premiums filed with the commissioner and does not result from a reclassification of the insured, or reduce the coverage under any such policy unless the reduction is part of a general reduction in coverage filed with the commissioner or to satisfy the requirements of other sections of this part 6.
- (2) An insurer intending to take an action subject to the provisions of this section shall, on or before the thirtieth day before the proposed effective date of the action, send written notice by first-class mail of its intended action to the insured at the insured's last-known address. The notice shall be in triplicate and shall state in clear and specific terms, on a form that has been certified by the insurer and the insurer has filed a certification with the commissioner that such notice form conforms to Colorado law and any rules promulgated by the commissioner:

The following chart illustrates the significance of error versus the population and sample examined:

Private Passenger Automobile Surcharges

| Population | Sample Size | Number of Exceptions | Percentage to Sample |
|-------------------|--------------------|-----------------------------|-----------------------------|
| 42 | 42 | 2 | 5% |

An examination of forty-two (42) files representing 100% of all such files involving underwriting surcharges handled by the Company during the examination period, showed two (2) exceptions (5% of the sample) wherein the Company failed to give thirty (30) days advance notice of premium increase as required by Colorado insurance law.

Recommendation # 3:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-4-629, C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has implemented necessary changes to its underwriting procedures to provide thirty (30) days' notification for an increase in premium in order to ensure compliance with Colorado insurance law.

Issue D: Failure, in some cases, to disclose the Colorado assigned risk plan on cancellation notices.

Section 10-4-606, C.R.S., Further Notice, states:

When automobile bodily injury and property damage liability coverage is cancelled, other than for nonpayment of premium, or in the event of failure to renew automobile bodily injury and property damage liability coverage to which section 10-4-604 applies, the insurer shall notify the named insured of his possible eligibility for automobile liability insurance through an assigned risk plan established pursuant to section 10-4-412 and shall notify the insured as to where he may obtain information concerning such plan. Such notice shall accompany or be included in the notice of cancellation or the notice of intent not to renew.

The following chart illustrates the significance of error versus the population and sample examined:

Private Passenger Automobile Cancellations

| Population | Sample Size | Number of Exceptions | Percentage to Sample |
|------------|-------------|----------------------|----------------------|
| 27 | 27 | 7 | 26% |

An examination of twenty-seven (27) underwriting cancellations, representing 100% of all such files handled by the Company during the examination period, showed seven (7) exceptions (26% of the sample) wherein the Company failed to provide notification of the Colorado assigned risk plan as required by Colorado insurance law.

Recommendation # 4:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-4-606, C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has implemented necessary changes to its cancellation notices in order to ensure compliance with Colorado insurance law.

Issue E: Failure, in some cases, to properly cancel policies.

Section 10-4-630, C.R.S., Exclusion of named driver, states:

- (1) In any case where an insurer is authorized under this part 6 to cancel or refuse to renew or increase the premiums on an automobile liability insurance policy under which more than one person is insured because of the claim experience or driving record of one or more but less than all of the persons insured under the policy, the insurer shall in lieu of cancellation, nonrenewal, or premium increase offer to continue or renew the insurance but to exclude from coverage, by name, the person whose claim experience or driving record would have justified the cancellation or nonrenewal. The premiums charged on any such policy excluding a named driver shall not reflect the claims, experience, or driving record of the excluded named driver.
- (2) With respect to any person excluded from coverage under this section, the policy may provide that the insurer shall not be liable for damages, losses, or claims arising out of this operation or use of the insured motor vehicle, whether or not such operation or use was with the express or implied permission of a person insured under the policy.

Colorado Insurance Regulation 5-2-12, Concerning Automobile Insurance Consumer Protections, states:

Section 5 Rules

B. Rules Limiting Insurers' Action To Refuse To Write, Cancel, Nonrenew, Increase Premium, Surcharge Or Reduce Coverages, states in part:

4. Basis for cancellation of an automobile insurance policy.
 - b. In the case of policies which have been in effect for more than sixty (60) days, an insurer may cancel a policy affording the coverages required by §10-4-620, C.R.S., only if the cancellation is based upon one of the following reasons:
 - (1) Nonpayment of premium (§10-4-602, C.R.S.); or
 - (2) The driver's license or motor vehicle registration of either the named insured or any operator either residing in the insured's household, or who customarily operates an automobile insured under the policy, has been under suspension or revocation during the policy period, or if the policy is a renewal, during its policy period or the 180 days immediately preceding its effective date (§10-4-602, C.R.S.); or
 - (3) The applicant knowingly made a false statement on the application for insurance (§10-4-602(1)(c), C.R.S.);

- (4) The insured knowingly and willfully made a false material statement on a claim submitted under the policy (§10-4-602(1)(d), C.R.S.).

The following chart illustrates the significance of error versus the population and sample examined:

Private Passenger Automobile Cancellations

| Population | Sample Size | Number of Exceptions | Percentage to Sample |
|------------|-------------|----------------------|----------------------|
| 27 | 27 | 4 | 15% |

An examination of twenty-seven (27) underwriting cancellations, representing 100% of all such files handled by the Company during the examination period, showed four (4) exceptions (15% of the sample) wherein the Company incorrectly cancelled policies for reasons that were not in compliance with Colorado insurance law.

- Two (2) instances involved the Company's failure to offer a named driver exclusion.
- Two (2) instances involved midterm cancellations based on the use of a prohibited reason.

Recommendation # 5:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-4-630, C.R.S. and Colorado Insurance Regulation 5-2-12. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has reviewed its procedure for proper cancellation of policies and implemented necessary procedural changes in order to ensure compliance with Colorado insurance law.

Issue F: Failure, in some cases, to properly nonrenew policies.

Section 10-4-628, C.R.S., Refusal to write - changes in - cancellation - nonrenewal of policies prohibited, states in part:

- (1) No insurer shall cancel; fail to renew; refuse to write; reclassify an insured under; reduce coverage under, unless the reduction is part of a general reduction in coverage filed with the commissioner; or increase the premium for, unless the increase is part of a general increase in premiums filed with the commissioner, any complying policy because the applicant, insured, permissive user, or any resident of the household of the applicant or insured has:
 - (a) Had an accident or accidents that are not the fault of such named applicant, insured, household member, or permissive user;
 - (b) Had a license revoked pursuant to section 42-2-125 (1) (n), C.R.S., had a license suspended pursuant to section 42-2-127.5, C.R.S., or been denied a license pursuant to section 42-2-104 (3) (f), C.R.S., based upon a conviction or adjudication under section 18-4-501 (2) or 18-4-509 (2), C.R.S.
- (2)(a)(I) No insurer shall cancel; fail to renew; reclassify an insured under; reduce coverage under, unless the reduction is part of a general reduction in coverage filed with the commissioner; or increase the premium for, unless the increase is part of a general increase in premiums filed with the commissioner, any complying policy solely because the insured person has been convicted of an offense related to the failure to have in effect compulsory motor vehicle insurance or because such person has been denied issuance of a motor vehicle registration for failure to have such insurance.
- (II) Unless actuarial justification in support of the insurer's action that has been filed with the commissioner demonstrates that there is an increase in risk, no insurer shall refuse to write a policy for a new applicant, surcharge the premium of a new applicant, or place a new applicant in a higher-priced program or plan based solely upon:
 - (A) The fact that the applicant had no prior insurance;
 - (B) The identity of the applicant's prior insurer; or
 - (C) The applicant's prior type of coverage, including assigned risk or residual market coverage or any plan other than a preferred plan.
- (III) An insurer may use industry-wide data in its actuarial justification under subparagraph (II) of this paragraph (a).

- (IV) An insurer shall not refuse to write a policy for a new applicant, surcharge the premium of a new applicant, or place a new applicant in a higher-priced program or plan solely because the applicant had no prior insurance if the applicant was not required to have insurance under section 10-4-620 or under a similar law in another state.
- (b)(I) An insurer shall not refuse to write a complying policy solely because of the claim or driving record of one or more but fewer than all of the persons residing in the household of the named insured.
- (II) An insurer shall offer to exclude any person in a household by name pursuant to section 10-4-629 if such person's driving record and claim experience would justify the refusal by such insurer to write a policy for such person if such person were applying in such person's own name and not as part of a household.
- (III) An insurer renewing a policy pursuant to subparagraph (II) of this paragraph (b) shall include, as part of such renewal, a written notice naming the party specifically excluded from coverage.
- (3) An insured who believes the provisions of subsection (1) or (2) of this section have been violated shall have the right to file a protest with the commissioner pursuant to section 10-4-629.

Section 10-4-629, C.R.S., Cancellation - renewal - reclassification, states in part:

- (1) Except in accordance with the provisions of this part 6, an insurer shall not cancel or fail to renew a policy of insurance that complies with this part 6, issued in this state, as to any resident of the household of the named insured, for any reason other than nonpayment of premium, or increase a premium for any coverage on any such policy unless the increase is part of a general increase in premiums filed with the commissioner and does not result from a reclassification of the insured, or reduce the coverage under any such policy unless the reduction is part of a general reduction in coverage filed with the commissioner or to satisfy the requirements of other sections of this part 6.
- (2) An insurer intending to take an action subject to the provisions of this section shall, on or before the thirtieth day before the proposed effective date of the action, send written notice by first-class mail of its intended action to the insured at the insured's last-known address. The notice shall be in triplicate and shall state in clear and specific terms, on a form that has been certified by the insurer and the insurer has filed a certification with the commissioner that such notice form conforms to Colorado law and any rules promulgated by the commissioner:

Section 10-4-630, C.R.S., Exclusion of named driver, states:

- (1) In any case where an insurer is authorized under this part 6 to cancel or refuse to renew or increase the premiums on an automobile liability insurance policy under which more than one person is insured because of the claim experience or driving record of one or more but less than all of the persons insured under the policy, the insurer shall in lieu of cancellation, nonrenewal, or premium increase offer to continue or renew the insurance but to exclude from coverage, by name, the person whose claim experience or driving record would have justified the cancellation or nonrenewal. The premiums charged on any such policy excluding a named driver shall not reflect the claims, experience, or driving record of the excluded named driver.
- (2) With respect to any person excluded from coverage under this section, the policy may provide that the insurer shall not be liable for damages, losses, or claims arising out of this operation or use of the insured motor vehicle, whether or not such operation or use was with the express or implied permission of a person insured under the policy.

Colorado Insurance Regulation 5-2-12, Concerning Automobile Insurance Consumer Protections, states in part:

Section 5. Rules

B. Rules Limiting Insurers' Action To Refuse To Write, Cancel, Nonrenew, Increase Premium, Surcharge Or Reduce Coverages

3. Application of time limitations.

In reviewing protests under §10-4-629, C.R.S., the Division of Insurance will apply the following time limitations:

- a. If the insurer bases its action upon the fact that an insured has been involved in an accident which resulted in payment under the policy and/or has been convicted of a motor vehicle violation, the insurer may base its action on convictions or accidents which occurred during the thirty-six (36) month period immediately preceding the date of the proposed action for that individual insured under the policy. However, in case of nonrenewals, increase in premiums, or reduction in coverage, in order to take action upon incidents occurring during this thirty-six (36) month period, at least one (1) incident must have occurred during the fifteen (15) month period immediately preceding the next renewal date for each individual upon whom the proposed action is being attempted. Cancellations are subject to the restrictions set forth in §10-4-602, C.R.S.
 - b. An insurer may exceed the fifteen (15) month period if such renewal is the first opportunity to underwrite an additional insured, i.e., new driver in household. Surcharge or merit rating changes may only be made on the policy renewal date.
5. Unacceptable reasons for refusal to renew a policy of automobile insurance include, but are not limited to the following:

- d. Motor vehicle citations without convictions.
- g. The use of comprehensive, towing and labor, or uninsured motorist coverage claims.
- h. The use of one (1) motor vehicle conviction resulting in less than eight (8) points assessed under the Colorado Motor Vehicle Point Assessment system or points assessed by another state.
- i. The use of one (1) motor vehicle accident, whether or not payment is made, unless a motor vehicle conviction of eight (8) points or more, assessed under the Colorado motor vehicle point assessment system, or points assessed by another state, resulted from the accident.

As used in h, I, and j, a conviction, accident, or payment made for the same occurrence shall be considered as one incident.

The following chart illustrates the significance of error versus the population and sample examined:

Private Passenger Automobile Nonrenewals

| Population | Sample Size | Number of Exceptions | Percentage to Sample |
|------------|-------------|----------------------|----------------------|
| 91 | 50 | 15 | 30% |

An examination of fifty (50) underwriting nonrenewals, representing 55% of all such files handled by the Company during the examination period, showed fifteen (15) exceptions (30% of the sample) wherein the Company failed to properly nonrenew policies as required by Colorado insurance law.

The exceptions are as follows:

- One (1) instance of nonrenewal resulting from use of comprehensive losses.
- Six (6) instances of nonrenewal wherein a named driver exclusion was not offered.
- One (1) instance of nonrenewal based on only one (1) conviction.
- Five (5) instances of nonrenewal based on only one (1) at fault accident.
- Two (2) instances of nonrenewal when there was not at least one incident occurring within the required fifteen (15) month period preceeding the renewal.

Recommendation # 6:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Sections 10-4-628, 10-4-629, and 10-4-630, C.R.S, and Colorado Insurance Regulation 5-2-12. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has implemented necessary changes to its procedures involving nonrenewals, in order to ensure compliance with Colorado insurance law.

HOMEOWNERS

RATING

Issue G: Failure, in some cases, to properly rate homeowners policies.

Section 10-3-1104(1)(f)(II), C.R.S., Unfair Competition-Deceptive Practices, states in part:

Making or permitting any unfair discrimination between individuals of the same class or between neighborhoods within a municipality and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of insurance, or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever,

Section 10-4-404.5, C.R.S., Rating plans - property and casualty Type II insurers - rules, states in part:

- (1) The Commissioner may promulgate rules and regulations for type II insurers that establish reasonable standards for rating plans, including experience rating plans, schedule rating plans, and expense reduction plans, and that are designed to modify rates in the development of premiums for individual risks insured in the property and casualty insurance market. Such rules may permit recognition of expected differences in loss and expense characteristics and shall be designed so that such plans are reasonable and equitable in their application and are not unfairly discriminatory. Such rules shall not prevent the development of new rating methods that would otherwise comply with this part 4. The rules may establish maximum charges against and credits to the experience rating of an insured that may result from the application of a rating plan. The rules may encourage the use of loss control programs, safety programs, and other methods of risk management and may require insurers to maintain documentation of the basis for the charges and credits applied under any plan. The rules may also require the rating plans to include merit rating to the extent feasible.

Additionally, Colorado Insurance Regulation 5-1-10, Rate and Rule Filing Submissions Property And Casualty Insurance, promulgated pursuant to the authority of Sections 10-1-109, 10-3-1110, 10-4-404 and 10-4-404.5, C.R.S., states in part:

Section 5. Rules

C. Rule Filing General Requirements

1. Every property and casualty company, including those writing workers' compensation and title insurance, is required by this regulation to provide a list of minimum premiums, schedule of rates, rating plans, dividend plans, individual risk modification plans, deductible plans, rating classifications, territories, rating rules, rate manuals and every modification of any of the foregoing which it proposes to use. Such filings must state the proposed effective date thereof, and indicate the character and extent of the coverage contemplated.

The following chart illustrates the significance of error versus the population and sample examined:

Homeowners In-Force Policies

| Population | Sample Size | Number of Exceptions | Percentage to Sample |
|------------|-------------|----------------------|----------------------|
| 8,525 | 100 | 5 | 5% |

An examination of 100 homeowners underwriting files, representing 1.2% of all such files handled by the Company during the examination period, showed five (5) exceptions (5% of the sample) wherein the Company failed to properly rate homeowners policies as required by Colorado insurance law.

The exceptions are noted as follows:

- Two (2) instances of use of an incorrect territory code for the city of Aurora, Colorado, from the zip code provided by the insured based on filed rates. This resulted in two (2) undercharges totaling \$100.74.
- One (1) instance involving use of an incorrect territory code for the city of Thornton, Colorado, in lieu of the correct territory code for the remainder of Adams county based on filed rates. This resulted in an overcharge of \$69.70.
- One (1) instance of an incorrect protection class of four (4) being used for Littleton, Colorado Fire District in lieu of the correct protection class of three (3). There is no premium difference.
- One (1) instance of an incorrect protection class of seven (7) being used for the city limits of Greeley, Colorado in lieu of the correct protection class of three (3). This resulted in an overcharge of \$128.35.

Recommendation # 7:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-3-1104, C.R.S., Section 10-4-404.5, C.R.S., and Colorado Insurance Regulation 5-1-10. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has implemented necessary changes to all protection classes and territory codes in order to ensure compliance with Colorado insurance law.

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Owners Insurance Company

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